

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6222 of 1983

WITH

SPECIAL CIVIL APPLICATION No 6223 of 1983

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA and

MR.JUSTICE R.P.DHOLAKIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?

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MUNICIPAL CORPORATION OF AHMEDABAD.

Versus

TORRENT CHEMICALS

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Appearance:

MR JR NANAVATI and AR THAKKER for Municipal Corporation  
MR VC DESAI for Respondent-Torrent Chemicals

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CORAM : MR.JUSTICE M.R.CALLA and  
MR.JUSTICE R.P.DHOLAKIA

Date of decision: 06/04/99

COMMON ORAL JUDGEMENT

Ahmedabad Municipal Corporation has challenged the order dated 4th August, 1983 passed in M.V.Appeal No.2098 of 1982 by the Small Causes Court at Ahmedabad in Special Civil Application No.6222 of 1983 and the order dated 4th August, 1983 in M.V.Appeal No.2099 of 1982 passed by the Small Causes Court at Ahmedabad in Special Civil Application No.6223 of 1982.

2. These matters are based on identical facts involving common question and, therefore, we propose to decide the same by this common judgment and order.

3. In Special Civil Application No.6222 of 1982, the premises in question is an office room on the third floor of a building known as B.Jadav Chambers, Ashram Road, Ahmedabad. The Municipal Corporation assessed the gross rateable value of the tax at Rs.8,822/- under the B.P.M.C. Act. Against the said assessment, an appeal was preferred by the respondent being Appeal No.2098 of 1982 before the Small Causes Court and the Small Causes Court partly allowed the appeal and gross rateable value of the aforesaid premises bearing final plot No.111 of 1957 in Ellisbridge Ward No.A/1 was fixed at Rs.792/- for the year 1982-83 instead of Rs.8,822/-. The Municipal Corporation had assessed the gross rateable value of the aforesaid premises on the basis that, in fact, the respondent was the tenant therein and the assessment was based on the contractual rent.

4. In Special Civil Application No.6223 of 1983, again the premises in question is an office room on the third floor of a building known as B.Jadav Chambers, Ashram Road, Ahmedabad. The gross rateable value was assessed by the Municipal Corporation in respect of the aforesaid premises at Rs.6,530/- under the B.P.M.C. Act for the year 1982-83. Against the said assessment, appeal was preferred before the Small Causes Court at Ahmedabad being M.V.Appeal No.2099 of 1982. This appeal was decided on 4th August, 1983 and the Small Causes Court fixed the gross rateable value in respect of the final plot No.111 of 1958 in Ellisbridge Ward No.A/1 at Rs.792/- for 1982-83.

5. Aggrieved from the orders dated 4th August, 1983 as aforesaid passed in M.V.Appeal No.2098 of 1982 and 2099 of 1982, present Special Civil Applications have been preferred by the Municipal Corporation of the City of Ahmedabad.

6. We have heard learned counsel for both the sides.

So far as the Special Civil Application No.6223 of 1983 is concerned, we find that the Small Causes Court has reduced the gross rateable value on the basis that the office room is a small one situated on the third floor and that Navdeep building is very near to the premises in question. It has referred to the comparing instances and the Small Causes Court has observed that after considering the comparable instances, the reasonable and expected rent of business premises on third floor at Navdeep building at the rate of Rs.2/- per sq.mt. was fixed on 22nd of July, 1983 in M.V.Appeal No.825 of 1981 and, therefore, same rate should be fixed for the premises in question, i.e. at the rate of Rs.2/per sq.mt. Accordingly, the rent comes out to Rs.66/and the rateable value was fixed at Rs.792/-. It is obvious that the grounds on which the gross rateable value has been determined by the Small Causes Court are not at all germane as the other instances in this regard were not relevant in our opinion for the purpose of determining the gross rateable value of the premises in question. It also appears that there was a dispute between the Municipal Corporation and the respondent-Torrent Chemicals about the area. The appellant claimed to be the owner and took the stand that the area was 30 sq.mts. whereas the Municipal Corporation contended that the area was 36 sq.mts. However, the Corporation did not adduce any evidence and after hearing both the sides, the area was taken to be 33 sq.mts. with the consent of the parties. It is, therefore, transparently clear that the gross rateable value which has been fixed by the Corporation at the rate of Rs.792/- for the year 1982-83 has to be taken as the assessed gross rateable value corresponding to the area admeasuring 33 sq.mts. Whereas we do not find that the Small Causes Court, Ahmedabad addressed itself to the relevant considerations for the purpose of reducing the gross rataable value, the order dated 4th August, 1983 passed in M.V.Appeal No.2099 of 1982 cannot be sustained and the same is hereby quashed and set aside and the assessment of gross rateable value at Rs.6530/-as assessed by the Municipal authorities stands restored and the same has to be acted upon. The Special Civil Application No.6223 of 1983 accordingly succeeds. The impugned order dated 4th August, 1982 is quashed and set aside and the Rule is made absolute accordingly in this petition.

7. In so far as the Special Civil Application No.6222 of 1982 is concerned, it has to be decided on the same reasoning on the basis of which the above Special Civil Application No.6223 of 1982 has been decided. However, in this case there is a factual discrepancy and

some dispute about the area. According to the respondent herein, i.e. the Torrent Chemicals, the area was 30 sq.mts. and according to the respondent Municipal Corporation, it was 36 sq.mts. Since the Corporation did not adduce any evidence and even the copy of the rough register was not produced, after hearing both the sides, the area was taken to be 33 sq.mts. with the consent of the parties. Now the question arises that if in the case of M.V.Appeal No.2099 of 1982 in the case of Torrent Chemicals while taking the area to be 33 sq.mts, the Municipal Corporation itself had assessed the gross rateable value to be Rs.6530/- for 1982-83, on what basis the same area of 33 sq.mts. in the case of M.V.Appeal No.2098 of 1982 gross rateable value could be assessed by the Municipal Corporation at Rs.8822/-. Both the premises are situated in the same building on the same floor and the area is also the same, i.e. 33 sq.mts. as agreed by both the parties. In this view of the matter, once the Corporation itself has assessed the gross rateable value for the area of 33 sq.mts. in the same building on the same floor, it could not assess the gross rateable value at a higher amount in the other case which was exactly similar and wherein area is also of same measurement. Therefore, we find that if we apply the reasons as have been given while deciding Special Civil Application No.6223 of 1982, the order dated 4th August, 1982 passed in M.V.Appeal No.2098 of 1982 cannot be sustained as such and the gross rateable value in this case has to be brought at par with the other case. The order dated 4-8-1982 is therefore quashed and set aside, but in order to maintain parity between the parties and to give an even treatment in identical cases, we order that the gross rateable value in the case of the premises concerned in Special Civil Application No.6222 of 1982 shall also be Rs.6530/instead of Rs.8822/-. This Special Civil Application No.6222 of 1983 is, therefore, partly allowed. Rule made absolute to the extent as above.

8. The two Special Civil Applications Nos.6223 of 1983 and 6222 of 1983 are decided accordingly with no order as to costs.

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